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CRL OP(MD) . No.17402 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
RESERVED ON : 30/11/2021
PRONOUNCED ON: 08/12/2021

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR
CRL OP(MD) . No.17402 of 2021

Mohamed Rizwan

... Petitioner/Sole Accused

Vs

The State rep.by,
The Inspector of Police,
Fort Police Station,
Trichy City.
(Cr.No. Not known of 2021)

... Respondent/Complainant

S.Bhuvana

... Petitioner/Intervener/
Defacto Complainant
in Cr1 MP(MD).NO.10468 of 2021
in Cr1OP(MD).NO.17402 of 2021

For Petitioner : M/s.Lenin Kumar T,
Advocate.

For Respondent : Mr.S.Manikandan,
Government Advocate (Cr1.Side)

For Intervenor : Mr.K.S.Kathiravan
Advocate

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

For Anticipatory bail in Crime No. Not known of 2021 on the
file of the Respondent police.

ORDER : The Court made the following order :-

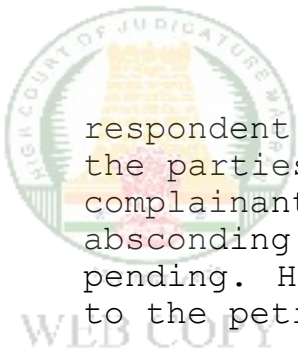
The petitioner/sole accused, who apprehends arrest at the hands
of the respondent police for the offences punishable under Sections
406, 448 and 379 I.P.C., in Cr.No.not known of 2021, seeks
anticipatory bail.

2.The case of the prosecution is that there existed a landlord
and tenant dispute between the petitioner and the defacto
complainant. Hence, the present complaint.

3. The learned Counsel for the petitioner would submit that the
petitioner is innocent and the allegations levelled against the
petitioner in the F.I.R., are false and concocted one. Hence, he
seeks anticipatory bail to the petitioner.

<https://hcservices.ecourts.gov.in/hcservices/>

4. The learned Government Advocate (Cr1.Side) appearing for the



respondent would submit that there arose a tenancy dispute between the parties and the petitioner damaged the properties of the defacto complainant worth about Rs.6,35,000/- and the petitioner is absconding. He would further submit that the investigation is pending. Hence, he strongly opposes for granting anticipatory bail to the petitioner.

5. The learned Counsel for the intervenor would submit that the new tenant is in possession of the shop since 25.06.2021 and the petitioner has not offered any reason or explanation as to why the Electricity Board has issued notice dated 01.04.2021 and further the petitioner damaged the properties of the defacto complainant worth about Rs.6,35,000/-.

6. Heard the learned Counsel for the petitioner, the learned Government Advocate (Crl.Side) appearing for the respondent police and the learned Counsel for the intervenor and perused the materials placed on record.

7. It is not in dispute that the petitioner has himself admitted that the defacto complainant was a tenant in respect of a shop situated at Madurai road, Tiruchirappalli. It is the specific case of the petitioner that the defacto complainant, after committing default in payment of rent, has vacated the shop premises in the year 2015 as the tenancy has got lapsed, that the petitioner has then occupied the said property for his own purpose and that thereafter, the said shop was rented out to the new tenant one Sabrun Jemila on 25.06.2021 and she has been in possession and enjoyment of the said shop. It is not in dispute that the defacto complainant has already filed a suit in O.S.No.547 of 2021, on the file of the District Munsif Court, Trichirappalli claiming the relief of permanent injunction restraining the petitioner and another and their men from interfering with the defacto complianant's peaceful possession and enjoyment of the suit property as a tenant, except otherwise than by due process of law and that the same is pending. She has also filed an injunction petition in I.A.No.1 of 2020, claiming temporary injunction restraining the petitioner and his men from interfering with her peaceful and enjoyment of the suit property either by attempting to forcibly dispossess them or in any manner whatsoever till the disposal of the suit and got an order of interim injunction and the same was in force.

8. In pursuance of the directions of this Court, the respondent has filed a status report and whereunder it has been stated that after having been enquired thoroughly, they come to the conclusion that the petitioner has committed the offence alleged and on that basis, the F.I.R., came to be registered in Cr.No.1315 of 2021, dated 10.11.2021 for the alleged offences under Sections 448, 294 (b), 427 and 506(2) I.P.C..

9. In the complaint, the defacto complainant has alleged that the petitioner and other accused had illegally trespassed into his



shop by breaking open the lock in the premises and broke the tables and chairs and other materials and took away the computer printer, lamination machine, chairs, sofa set, ceiling fan, tube light, tables and a cash of Rs.9,800/- and thereby caused loss to the tune of Rs.6,35,000/- to the defacto complainant.

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10. In the additional typed set filed by the petitioner, they have produced EB notice for termination of agreement dated 01.04.2021 and whereunder, as rightly pointed out by the learned Government Advocate(Crl.Side), the electricity connection standing in the name of Muthavalli Sydany Beedargha is under disconnection on and from 23.12.2020 for more than three months and a sum of Rs.707/- was due payable by them as on the date of disconnection and further directed them to settle the dues to avoid further action.

11. As rightly contended by the learned Counsel for the intervenor, though the petitioner has stated in his petition that the defacto complainant was evicted from the shop premises in the year 2015 itself and the petitioner was in possession thereafter and subsequently, a new tenant was inducted on 25.06.2021 and the electricity service connection in respect of the disputed shop premises was under disconnection from 23.12.2020.

12. As rightly contended by the learned Counsel for the intervenor, the new tenant is in possession of the shop since 25.06.2021. The petitioner has not offered any reason or explanation as to why the Electricity Board has issued a notice dated 01.04.2021.

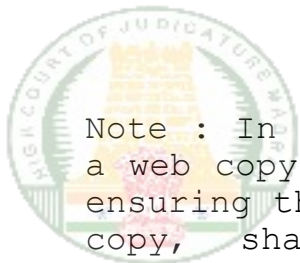
13. Considering the seriousness and gravity of the offences alleged and also taking note of the stand of the petitioner and also the quantum of damages allegedly caused to the defacto complainant, and that the investigation is pending as stated by the learned Government Advocate (Crl.Side) appearing for the respondent, this Court is not inclined to grant anticipatory bail to the petitioner at this point of time.

14. In the result, this Criminal Original Petition is dismissed.

sd/-
08/12/2021

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/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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TO

1.THE INSPECTOR OF POLICE,
FORT POLICE STATION, TRICHY CITY.

2.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S.K.S.KATHIRAVAN, Advocate SR.No.38095 dated 10/12/2021

ORDER

IN

CRL OP(MD) No.17402 of 2021

Date :08/12/2021

RK/JM/SAR-II(16/12/2021) 4P 4C